



US Environmental Protection Agency  
Attn: Portland Harbor Comments  
805 SW Broadway, Ste. 500  
Portland OR 97205

Re: Portland Harbor Superfund Explanation of Significant Differences

December 21, 2018

To Whom It May Concern,

The Record of Decision (ROD) for Portland Harbor Superfund was an effort 17 years in the making, issued in January 2017 with engagement from community stakeholders, Tribes, and Potentially Responsible Parties (PRPs). The recent Explanation of Significant Differences (ESD) proposes to reduce the area of active mitigation and monitoring for the Portland Harbor superfund site by about 17 acres at the request of only some PRPs. We are concerned that the proposed departure from the ROD is correlated with political changes to the federal administration and EPA leadership.

Portland Harbor Community Coalition (PHCC) leadership, its members, and many more, oppose the ESD because it will unnecessarily expose the community, especially workers employed at the Gasco and Terminal 4 sites and tribal fishers, to extreme health risks for a much longer period of time. PHCC represents the most disproportionately impacted groups in the Portland Harbor cleanup process, including Native Americans, African-Americans/Blacks, immigrants and refugees, people who are experiencing houselessness, and area residents.

Our reasons for opposing the ESD are listed below:

**EPA SHOULD NOT BE WEAKENING A ROD THAT WAS NOT PROTECTIVE ENOUGH**

We appreciated that EPA responded to the Portland Harbor communities to the proposed cleanup plan by increasing the cleanup level. EPA's initial preferred alternative was grossly inadequate. Even though the ROD was an improvement, it still will leave the fish unsafe to eat and some beaches unsafe to use for an indefinite period of time. EPA planned to rely on fish advisories that would shift the burden to people to avoid eating the fish and let the polluters

invest less in the cleanup. The ROD was based on significantly less cleanup than we had hoped to see in order to finally honor the regional Tribes' Treaties and to remove the fish advisories.

We are shocked and disappointed by EPA's proposal in the ESD to weaken cleanup standards and shrink the scope of the cleanup. EPA should not give into pressure from PRPs to weaken the cleanup based on a risk assessment of only one contaminant Benzo(a)Pyrene (BaP), when the toxicity of other polycyclic aromatic hydrocarbons (PAHs), mixtures, and colocated contaminants are not fully understood. Impacted communities do not want to hear that a site with complex mixtures of toxins will be cleaned up less because of an apparent change in toxicity level of this one toxin. EPA should not finalize the ESD without a probing and open examination of the impact longer exposure to hazardous contamination would have on the community.

### **IT IS TIME FOR A TRANSPARENT AND INCLUSIVE PROCESS FOR THE PORTLAND HARBOR CLEANUP**

The ESD resulted from the special access and influence that the PRPs exercised over EPA. NO directive came from EPA headquarters to all Superfund sites with BaP to make this type of change around the country. This is a unique action that EPA is taking, based on pressure from PRPs. Had the situation been reversed with advocacy from Tribes or communities impacted by the pollution, we doubt EPA would take the same expedited action. Hudson River Superfund community stakeholders have been ignored by EPA when they made a request to expedite a change in the ROD based on new data indicating the contamination was more serious than previously thought. They were neither granted an ESD nor a ROD amendment.

We lack the money and political access to EPA headquarters that PRPs have utilized to bring about this expedited change and to weaken the baseline sampling at this site. It is incumbent upon EPA to take steps to rectify this power imbalance and ensure this cleanup proceeds in a fair and balanced manner that is protective of health and the environment.

The Portland Harbor community stakeholders insist on greater transparency and inclusion. It is time for the secret negotiations over Portland Harbor cleanup and related matters to stop. All future meetings with EPA, DEQ, and other agencies with governmental authority should be accessible to the public. While allocation of financial responsibility among the PRPs may occur behind closed doors, the future cleanup of the Willamette River should be debated in the open and not through private conversations with entities who have the resources and connections to gain access to decision-makers. EPA, along with the City of Portland, Port of Portland, Metro, and State of Oregon should insist on openness, and should not participate in, or remain silent about the behind-the-scenes influence-peddling that has been carrying the day.

Given the complexity of this site, and the lengthy period of time over which key decisions will be made and actions will be taken, it is time to fundamentally re-design the process to become a more participatory approach for implementation. This is critical not only because of the scale of

the effort, but also because upcoming decisions will be fraught with broad implications for ecological, economic, community development, cultural, social and environmental justice. These important issues warrant careful consideration and full public partnership in the years ahead. PHCC believes that it is past time to work on the design of a new model for community participation or the long-term results will likely be very disappointing and lack legitimacy.

## **THE FULL HEALTH AND ENVIRONMENTAL EFFECTS OF THE PROPOSED WEAKENING OF THE CLEANUP HAVE NOT BEEN FULLY EXPLORED**

In its haste to make changes to the ROD pressed by the PRPs, EPA is proposing to weaken the cleanup without fully investigating and understanding the implications for health, the environment, and the impacted communities. EPA should keep the cleanup on track and avoid weakening the cleanup and exposing people to risks for longer periods of time than would occur under the ROD. Among the unexplored issues are:

- 1. A Single Study on One Contaminant is an Insufficient Basis to Increase Exposures to Other Chemicals in the Class.**

EPA has assumed that exposures to 6 cancer-causing Polycyclic Aromatic Hydrocarbons can be increased based on a study of a single chemical in this class - benzo(a)-pyrene. The research EPA is using has toxicity values based off of science from the 1960s. There has been more research since then, including from 2010. This is unacceptable. Mixtures of PAHs may be more toxic than a single PAH. Scientific studies call this assumption into question. Oregon State University's research results from the Portland Harbor Superfund site reveal concerning findings that EPA's method underestimates cancer potency for the 6 other PAHs present at the site. Is BaP really the best, most appropriate standard to comparing other PAHs? EPA region 10 and headquarters must look at the most current research of PAHs affecting human health.

- 2. EPA Must Ensure People Are Protected from Mixtures, Other Co-located Contaminants, and Effects other than Cancer.**

EPA has insufficiently accounted for the cumulative impacts of exposures to PAH mixtures Portland Harbor communities are known to typically be exposed to from the Superfund site and in the broader environment. What are the additive impacts of exposures to multiple hazardous contaminants specific to the site? Portland Harbor is a complex site that involves far more than exposure to one contaminant, in an area known to have some of the worst air quality in the nation, surrounded by several hazardous facilities, some of which require ongoing mitigation and monitoring. Weakening the cleanup based on studies of a single chemical is unwarranted until these complex effects have been examined. EPA also needs to make sure that non-cancer impacts or exposures to other contaminants of concern like other PAHs, polychlorinated biphenyls (PCBs), dioxins and furans, and pesticides (DDT and its products DDD and DDE) will be minimized to the maximum extent possible.

**3. EPA Has Not Addressed the Critiques of the Scientific Methodologies Underlying the PRP's Lobbying for Weaker Remedial Action Levels.**

NW Natural deviated from EPA's methodology and offered its own novel approach in arguing that the remedial action levels for the nearshore area and navigation channel should be weakened. NW Natural used two approaches: (1) a proportional adjustment approach; and (2) a risk reduction approach. The tribes objected to NW Natural's approach based on scientific critique, but EPA accepted NW Natural's approach without responding to the critique.

**4. EPA Must Ensure the Environment is Protected.**

The new study pertains to health effects. EPA must also ensure that cleanup standards are adequate to protect the environment. The toxicity of BAP and other PAHs to ecological endpoints is unaffected by any change to carcinogenicity in humans expressed in the new IRIS report. The numerous animals that are already affected and will be affected by PAHs will be less protected by the proposed change to the ROD. The ESD really must account for the greater risk proposed for ecological endpoints, including fish, birds, benthic invertebrates and other animals by increasing the removal of PAHs elsewhere, or maintaining the removal footprint in order to protect non-human endpoints. There has yet to be enough shallow water habitat planned for the areas outlined in the ESD to come close to healthy environmental standards, critical for fish and other species. Did EPA take into account the City of Portland studies on this same subject that were completed as part of the NRDA process?

**5. EPA Must Ensure the Cleanup of Gasco, Terminal 4, and Beaches Proceed Expeditiously and Will Be Protective of Public Health and the Environment.**

There are known, multiple, co-occurring contaminants at the Gasco site and Terminal 4. EPA has not adequately examined the combination of PAHs and other contaminants at these specific hot spots as well as beaches with known public access. It has weakened the triggers for dredging across the Superfund site in a way that will reduce the amount of dredging that will occur at Gasco and Terminal 4. Since dredging is the only effective and permanent long-term treatment in the ROD, EPA is endorsing an approach that will lengthen the time the fish will be unsafe to eat and rely on fish advisories, which are notoriously ineffective, to prevent people from being at risk of unacceptable health effects. EPA should not delay or weaken the cleanup of these sites.

**6. EPA Has Not Accounted for Recontamination.**

PHCC is concerned about the potential for recontamination with the weakening of the cleanup standards. It is premature to weaken the ROD when the EPA has yet to sequence and coordinate the cleanups to prevent such risks, particularly when the proposed changes have not adequately factored in climate change or disasters, including anticipated major earthquake, flood, and drought scenarios and how they will impact recontamination. The City of Portland - Water Bureau, is proposing to move its water pipes deeper below the Willamette River in anticipation of liquefaction. An article

about the City's plans can be found here:

<https://katu.com/news/local/water-bureau-to-build-new-pipe-deep-below-willamette-current-pipes-could-fail-in-quake>. EPA must also consider whether the ESD and final cleanups at specific sites in the Portland Harbor Superfund will recontaminate if this disaster takes place.

## **WEAKENING THE ROD WILL PERPETUATE ENVIRONMENTAL INJUSTICES**

The disproportionate impacts by race and class of this ESD likely violate Title VI and the essence of Executive Order 12898, the 1996 federal action to address unfair and disproportionate impacts of federal actions on communities of color and low-income populations. A variety of disenfranchised communities have suffered and continue to suffer disproportionate health risks because of the ongoing delays, lack of transparency, and threats to weaken the Portland Harbor cleanup. Multnomah County recently hosted a fish advisory workshop where over 20 Vietnamese immigrants attended and many of whom confirmed that they consume fish from the lower Willamette River. Our coalition plans to continue to engage these people in the cleanup process. PHCC and partners continue to collect stories of individuals from Black, Native American, Immigrant and Refugee, and Houseless/Homeless communities, and other area residents whose health has been disproportionately impacted by the pollution in the Portland Harbor over several generations.

One of our Steering Committee Members, (b) (6), feels it important to convey her family's story. Her father lost his life prematurely to lung cancer after having worked in the Kaiser shipyards having been exposed to contaminants he was not told at the time were carcinogenic. She and her family grew up catching and consuming resident fish along the banks of the Portland Harbor, unknowingly being exposed to PCBs over many years. She and her children have since been displaced to neighborhoods further away from the river and have lost their connection to the river after having discovered the toxic nature of the Willamette later in life.

(b) (6) grew up near the Puget Sound. After losing his job and struggling to find a new one, he ended up houseless along the Portland Harbor. He consumed fish both from the Puget Sound and the Portland Harbor. After learning about the Superfund, he became one of PHCC's most passionate members, working hard to get the word out to other houseless people along the river. (b) (6), but his spirit lives on amongst PHCC members.

Purépecha people, indigenous to San Jerónimo Purenchécuaro, Michoacán, Mexico have also been exposed to Portland Harbor contaminants. During the warmer seasons, some stock their freezers with resident, bottom feeder fish, caught from around the region, including Portland Harbor. Many live close to 40 miles south of Portland Harbor, in Tualatin, Hubbard or Woodburn. Before PHCC told them about the fish advisory, they had no idea that there was any health concern.

(b) (6) from Get Hooked Foundation frequently encounters the same two men of Eastern European descent fishing for carp at Swan Island. Also, when PHCC facilitated a workshop for Eastern European youth a few years ago, when asked who has fished or whose family has fished in the lower Willamette, more than half of the youth raised their hands.

(b) (6), the Vietnamese, the Purépecha, and the Eastern European fisher people and all area residents deserve more bold actions from all parties involved with the Portland Harbor, the likes of which are not reflected in the proposed ESD.

EPA's EJ 2020 Action Agenda states that "The U.S. Environmental Protection Agency's mission is to protect the environment and the health of all people in every corner of our nation. But far too often minority and low-income communities and indigenous peoples are most vulnerable to environmental and public-health challenges." In this message, then Administrator Gina McCarthy committed to "promote the integration of environmental justice across our nation's larger environmental enterprise." PHCC is giving you an opportunity to turn EPA's EJ stated commitment into action to protect the region's most vulnerable families. Lowering the cleanup standard based on a single pollutant like BaP does not reflect a commitment to environmental justice. EPA must slow down and ensure that it fully explores and understands the impacts the proposed weakening of the cleanup could have on communities of color and low-income populations before committing to the proposed ESD.

### **PRPS SHOULD BE RESPONSIBLE TO IMPACTED COMMUNITIES**

Public and quasi-public agencies including the Port of Portland, NW Natural, City of Portland, State of Oregon and Metro, need to be more responsive to the needs of the local community, especially those disadvantaged by past and ongoing contamination and who could well be a major part of the cleanup and related work, learning new skills and helping keep the benefits of the cleanup on the ground in the Portland area. The Port has stated in the past to legislators that they have the funds needed to thoroughly address their liability. It is unfair for public agencies to pass the burden onto ratepayers or to use this as an excuse to need to reduce liability. NW Natural and the Port of Portland have made profits from economic development of the river, and will continue to do so into the long-term future. The real question is, what kind of river will remain?

### **CONCLUSION**

Weakening the cleanup standards by lowering the Remedial Action Levels and reducing the amount of dredging that will occur would leave more contamination at the site for an even longer amount of time. Every time we increase the level of allowable toxic contamination, highly polluted areas are less likely to be cleaned up. EPA was already planning to remove only about 13% of the worst contaminated areas in Portland Harbor. Instead of active remediation, EPA was already relying heavily on natural recovery, fish advisories, and the band-aid approach of institutional controls, that would continue to expose future generations of already impacted communities.

The Record of Decision should not be lightly cast away. Any changes to the ROD should be based on a holistic examination and balancing of the complexities at the site and the impacts on the communities, not solely lobbying from the PRPs. The decisions to be made now and yet to be made in the future will change the Willamette and the face of Portland. And, for that reason, they should not be driven principally by the financial desires of the same folks who, in the course of doing well economically on the river, contributed to its degradation. After 17 years of waiting, the community is eager to begin a thorough cleanup.

The Portland Harbor Community Coalition and our Partners who signed below demand that EPA reject the ESD and proceed with implementation of the cleanup.

Sincerely,

(b) (6), Coalition Coordinator  
Portland Harbor Community Coalition

(b) (6), Community Organizer  
Portland Harbor Community Coalition

(b) (6), Community Organizer  
Portland Harbor Community Coalition & Executive Director - Right 2 Survive

(b) (6), Media Coordinator  
Portland Harbor Community Coalition

(b) (6), Nimiipuu/Nez Perce/Cayuse  
Portland Harbor Community Coalition Steering Committee Member

(b) (6), Board Member  
East European Coalition &  
Portland Harbor Community Coalition Steering Committee Member

(b) (6), Community Activist &  
Portland Harbor Community Coalition Steering Committee Member

(b) (6), Member - Iraqi Society of Oregon &  
Portland Harbor Community Coalition Steering Committee Member

(b) (6), Community & Environmental Engagement Manager - NECN &  
Portland Harbor Community Coalition Steering Committee Member

(b) (6) , Community Relations  
American Indian Movement - Portland Oregon Chapter

(b) (6) , Founder  
Get Hooked, Inc.

(b) (6) , Executive Director  
Iraqi Society of Oregon

(b) (6) Board Member  
Right 2 Survive

(b) (6) , Member  
NAACP

(b) (6) , Senior Consultant  
Wisdom of the Elders, Inc.

(b) (6) , Steering Committee Member  
Portland Harbor Community Advisory Group

(b) (6)  
Cathedral Park Neighborhood representative  
Portland Harbor Community Advocacy Group, board member

(b) (6) , Executive Director  
Willamette River Advocacy Group

(b) (6) , Conservation Director  
Audubon Society of Portland

(b) (6)  
Riverkeeper & Executive Director  
Willamette Riverkeeper

(b) (6) , Member  
Occupy St John's

(b) (6) , Chair  
Linnton Neighborhood Association

(b) (6) , Executive Director  
St. Johns Center for Economic Opportunity



(b) (6), Assinaboine/Sioux Tribe-President  
Northwest Council of Water Protectors

(b) (6), Executive Director  
(b) (6), Clean Energy Organizer  
Oregon Physicians for Social Responsibility

(b) (6), Executive Director  
Don't Shoot PDX  
(b) (6) -Founder and (b) (6) -Project Manager  
Professional Business Development Group

(b) (6), Volunteer Organizational Resilience Lead &  
(b) (6), Just-Based Transition & Equity Organizer  
350PDX

(b) (6)  
Racial Justice Team - Portland Raging Grannies

(b) (6), Member  
Village Coalition

(b) (6)  
StoppedFrackedGasPDX

(b) (6)  
Portland Youth Climate Council

(b) (6) Nimiipuu- Executive Director, Confluence Environmental Center & Former Nez  
Perce Tribal Council Member

(b) (6), Executive Director  
Unite Oregon

(b) (6)  
Legal & Program Director  
Columbia Riverkeeper

(b) (6), Chair  
Friends of Baltimore Woods & Portland Harbor Community Advisory Group Member

(b) (6), member  
Sierra Club - Oregon & Portland Harbor Community Coalition

(b) (6) , Engagement Program Manager  
Columbia Land Trust

(b) (6) , Manager of Immigrant Organizing  
Asian Pacific American Network of Oregon

(b) (6) & (b) (6) , Co-Chairs  
Metropolitan Alliance for Workforce Equity

Healthy Communities Coalition

(b) (6) , Executive Director  
Portland African American Leadership Forum &  
Design & Culture Lab

(b) (6) , Director  
Equity in Action & Woodlawn MIC

(b) (6) , Owner & Founder  
Loculi Design LLC

(b) (6) , Executive Director  
Recode

(b) (6) President  
Cascadia Chapter - Pacific Green Party & Downtown Portland

(b) (6) Executive Director  
Constructing Hope

(b) (6) , Executive Director  
Verde

(b) (6) , President  
Oneill Electric Inc - O'Neill Construction Group

Coordinating Committee  
Portland-Metro People's Coalition

(b) (6) , Executive Director  
Portland Jobs With Justice

(b) (6) , Executive Director  
Blueprint Foundation

(b) (6) , MD  
Department of Pediatrics, Kaiser Permanente, NW Region

(b) (6)  
Community Relations & Outreach  
Pacific Northwest Regional Council of Carpenters

(b) (6) , Coordinator/Director  
Duwamish River Cleanup Coalition/TAG

(b) (6) , Owner  
Lauren Chandler Cooks

(b) (6) , Activist  
Turtle Mountain Reservation

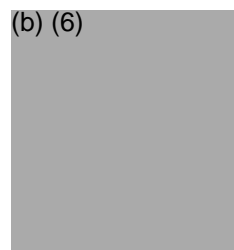
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